

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

In the Matter of:

In Bankruptcy:

**SARINA MARIE MARSHALL  
GUY OKEEFE MARSHALL, JR.**

Case No. 18-55741-tjt  
Chapter 7  
Hon. Thomas J. Tucker

Debtors

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**TRUSTEE'S OBJECTION TO  
DEBTORS' CLAIM OF EXEMPTIONS**

Trustee Wendy Turner Lewis, by her attorneys Clayson, Schneider & Miller P.C., hereby objects as follows to Debtor's claim of exemptions:

**JURISDICTION**

- 1) Pursuant to 28 U.S.C. § 157(b)(2)(B) and Fed. R. Bankr. P. 4003, the Bankruptcy Court has jurisdiction over issues relating to disallowance of a debtor's exemptions.
- 2) Matters involving disallowance of a debtor's exemptions constitute a "core proceeding" under 28 U.S.C. § 157(b)(2).

**FACTS**

- 3) Debtors Sarina Marie Marshall and Guy Okeefe Marshall, Jr. ("Debtors") filed a voluntary petition for Chapter 7 bankruptcy on November 21, 2018.
- 4) Wendy Turner Lewis ("Trustee") is the duly appointed Chapter 7 trustee.

- 5) The original deadline to object to Debtors' claim of exemptions is January 18, 2019.
- 6) Debtors original schedules listed the following exemptions:
  - a) "Home" under 11 U.S.C. §522(d)(1)(5) in the amount of "100% of fair market value up to any applicable statutory limit"; and
  - b) Cash on hand under 11 U.S.C. § 522(d)(3) in the amount of "100% of fair market value up to any applicable statutory limit".
- 7) "Home" is a property located at 37090 Emery St., Clinton Township, MI 48036.
- 8) On information and belief, "Home" is titled solely in the name Debtor Sarina Marie Marshall.
- 9) Debtors initial Schedule C was for both Debtors combined, but Debtors have since filed amended Schedule C's.
- 10) With the most recent amendments, the Debtors appear to be each claiming a full exemption in the house, and in two of the four vehicles now listed on Schedule B.

## ARGUMENT

- 11) 11 U.S.C. § 522(d)(1) states in relevant part that a debtor is entitled to exempt “[t]he debtor's aggregate interest, not to exceed \$ 23,675 in value, in real property or personal property that the debtor or a dependent of the debtor uses as a residence...”.
- 12) Under 11 U.S.C. § 522(d)(2), debtors are entitled to exempt “[t]he debtor’s interest, not to exceed \$3,775.00 in value, in one motor vehicle”.
- 13) 11 U.S.C § 522(d)(3) allows a debtor to exempt “[t]he debtor's interest, not to exceed \$600.00 in value in any particular item or \$12,625.00 in aggregate value, in household furnishings, household goods, wearing apparel, appliances, books, animals, crops, or musical instruments, that are held primarily for the personal, family, or household use of the debtor or a dependent of the debtor.
- 14) Under 11 U.S.C. § 522(d)(5), a Debtor is entitled to exempt “...[t]he debtor’s aggregate interest in any property, not to exceed in value \$1,250 plus up to \$11,850 of any unused amount of the exemption provided under [11 U.S.C. § 522(d)(1)]”.
- 15) Debtors’ exemptions claimed under 11 U.S.C. §522(d)(1)(5) is improper because this section does not exist.

- 16) To the extent that Debtor Guy Okeefe Marshall, Jr. seeks to exempt an interest in “Home” under 11 U.S.C. §522(d)(1), his exemption should be denied because he does not own said property.
- 17) To the extent that either of the Debtors seek to exempt multiple vehicles under 11 U.S.C. § 522(d)(2), such exemption should be denied.
- 18) Debtor’s exemption of cash on hand under 11 U.S.C. § 522(d)(3) is improper because cash on hand can only be claimed as exempt under 11 U.S.C. § 522(d)(5).
- 19) This objection is authorized and timely under Fed. R. Bankr. P. 4003.
- 20) Trustee sought to arrange concurrence to the relief sought by this Motion in accordance with L.B.R. 9014-1(h) by letter dated January 7, 2019, but no response has been provided.

**WHEREFORE**, the Trustee prays that the Debtors’ claim of exemptions is denied pursuant to the proposed order submitted herewith.

Respectfully submitted,

**CLAYSON, SCHNEIDER & MILLER P.C.**

Dated: January 18, 2019

/s/ Peter F. Schneider  
Peter F. Schneider (P75256)  
Attorneys for Trustee  
645 Griswold, Suite 3900  
Detroit, MI 48226  
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**BRIEF IN SUPPORT OF TRUSTEE'S  
OBJECTION TO DEBTORS' CLAIM OF EXEMPTIONS.**

For the reasons set forth in the Trustee's Motion, filed herewith, the Trustee prays that this Court deny the Debtors' claim of exemptions.

Respectfully submitted,

**CLAYSON, SCHNEIDER & MILLER P.C.**

Dated January 18, 2019

/s/ Peter F. Schneider  
Peter F. Schneider (P75256)  
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***PROPOSED ORDER GRANTING TRUSTEE'S  
OBJECTION TO DEBTORS' CLAIM OF EXEMPTIONS.***

The Trustee, Wendy Turner Lewis ("Trustee"), having filed and served an objection to the Debtors' claim of exemptions, and there being no response,

**IT IS HEREBY ORDERED** that the Trustee's objection to Debtors' claim of exemptions is **SUSTAINED**. The Debtors are not prejudiced by this order from filing an amended claim of exemptions to correct the issues described herein.

**IT IS FURTHER ORDERED** that the Debtors' exemptions in real property located at 37090 Emery St., Clinton Township, MI under 11 U.S.C. § 522(d)(1)(5) are **DENIED**.

**IT IS FURTHER ORDERED** that the Debtors' exemptions claimed under 11 U.S.C. § 522(d)(2) are **DENIED** to the extent that they seek to exempt multiple vehicles per Debtor.

**IT IS FURTHER ORDERED** that the Debtors' exemptions claimed in "cash on hand" under 11 U.S.C. § 522(d)(3) are **DENIED**.

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**NOTICE OF TRUSTEE'S OBJECTION  
TO DEBTORS' CLAIM OF EXEMPTIONS**

Clayson, Schneider & Miller P.C., on behalf of Wendy Turner Lewis, Trustee, has filed papers with the court entitled Trustee's Objection to Debtors' Claim of Exemptions.

**Your rights may be affected.** You should read these papers carefully and discuss them with your attorney if you have one in the bankruptcy case. (If you do not have an attorney, you may wish to consult with one).

If you do not want the court to grant the relief as set forth above, or if you want the court to consider your views on the motion, within fourteen (14) days, you or your attorney must:

1. File with the Court a written response or answer, explaining your position at:

**United States Bankruptcy Court**  
211 W. Fort St., 17th Fl.  
Detroit, MI 48226

If you mail your response to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above. All attorneys are required to file pleadings electronically.

You must also mail a copy to:

Office of the United States Trustee  
211 W. Fort St.  
Detroit, MI 48226

Peter F. Schneider  
645 Griswold St., Suite 3900  
Detroit, MI 48226

2. If a response or motion is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing. **If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.**

Respectfully submitted,

**CLAYSON, SCHNEIDER & MILLER P.C.**

Dated January 18, 2019

/s/ Peter F. Schneider  
Peter F. Schneider (P75256)  
Attorneys for Trustee  
645 Griswold, Suite 3900  
Detroit, MI 48226  
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**CERTIFICATE OF SERVICE**

Re: Trustee's Objection to Debtors' Claim of Exemptions; Brief in Support of Trustee's Objection to Debtors' Claim of Exemptions; proposed order; notice of opportunity to respond; and certificate of service.

I hereby certify that on the 18th day of January, 2019, I electronically filed the foregoing Paper(s) with the Clerk of the Court using the ECF system which will send notification of such filing to the Office of the United States Trustee and all those listed by the court as receiving electronic notices in this case from the court's CM/ECF system.

I further certify that on the 18th day of January, 2019, in accordance with Fed. R. Bankr. P. 4003(b)(4), copies of the foregoing documents were sent to the Debtors at 37090 Emery St., Clinton Township, MI.

*[continued on next page]*

Respectfully submitted,

**CLAYSON, SCHNEIDER & MILLER P.C.**

Dated: January 18, 2019

/s/ Peter F. Schneider

Peter F. Schneider (P75256)

Attorneys for Trustee

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